



UNITED STATES PATENT AND TRADEMARK OFFICE

A

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,782	02/28/2002	Carol L. Colrain	50277-1957(OID No. 2000-1	8991
29989	7590	08/08/2005	EXAMINER	
HICKMAN PALERMO TRUONG & BECKER, LLP 2055 GATEWAY PLACE SUITE 550 SAN JOSE, CA 95110			DODDS, HAROLD E	
			ART UNIT	PAPER NUMBER
			2167	

DATE MAILED: 08/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/086,782

Applicant(s)

COLRAIN ET AL.

Examiner

Harold E. Dodds, Jr.

Art Unit

2167

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 July 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

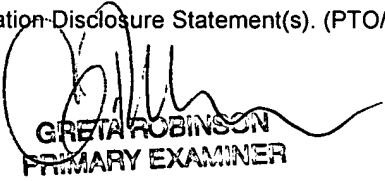
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 45-60.
Claim(s) withdrawn from consideration: _____

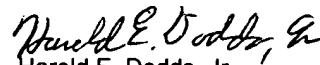
AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered, but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information-Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____


GRETA ROBINSON
PRIMARY EXAMINER


Harold E. Dodds, Jr.
Patent Examiner

8/4/05

Continuation of 5. Applicant's reply has overcome the following rejection(s): The Applicants have overcome the rejection for independent claims 45 and 53 under 35 U.S.C. 112, second paragraph by replacing "IP" with "internet protocol (IP)"..

Continuation of 11. does NOT place the application in condition for allowance because: Independent claims 45 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gamache et al. (U.S. Patent No. 6,463,457) and Armentrout et al. (U.S. Patent No. 6,463,457). Gamache teaches "a service requestor using an IP address to access a service provided by a first node within a cluster" at col. 7, lines 30-32, col. 5, lines 37-43, and col. 9, lines 56-58, "in response to said first node becoming unavailable" at col. 9, lines 56-58 and col. 20, lines 10-12, "automatically configuring a second node of the cluster" at col. 9, lines 25-27, col. 9, lines 62-64, and col. 9, lines 2-4, "associated with said IP address" at col. 5, lines 39-43, "after said first node becomes unavailable" at col. 9, lines 56-58 and col. 20, lines 10-12, "the service requestor using said IP address" at col. 7, lines 30-32 and col. 5, lines 39-43, "to send a message to said cluster related to said service" at col. 5, lines 62-67, col. 6, lines 1-2, and "said second node of the cluster" at col. 9, lines 2-4. Armentrout teaches "to respond to requests" at col. 22, lines 55-56, "and in response to said message" at col. 23, lines 64-67, and "sending a response that indicates an error condition" at col. 17, lines 62-64 and col. 24, line 2. It would have been obvious to one of ordinary skill at the time of the invention to combine Armentrout with Gamache to provide responses to requests and messages in order to use standard communication protocol between members of a network and to promote user acceptance of the system. Likewise, it would have been obvious to one of ordinary skill at the time of the invention to combine Armentrout with Gamache to detect error conditions in order to identify when a member of the network has an error condition and to permit appropriate action to be taken to correct the problem or take another corrective action and thus provide a more stable system.